

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ASHLEY ADAMS, individually and as the
representative of the Estate of RODNEY GERALD
ADAMS; and WANDA ADAMS, individually;

CARLETTE HUNTER JAMES, individually and as the
representative of the Estate of KENNETH WAYNE
JAMES; KRISTY JAMES, KRYSTAL JAMES,
KENDRICK JAMES, ARLETT JAMES, JONATHAN
JAMES and KENNETH EVANS, individually and as
heirs-at-law to the Estate of Kenneth Wayne James, and
MARY LOU JAMES, individually,

CADE HUDSON, individually and as the representative
of the Estate of DOUGLAS HUDSON,

PLAINTIFFS

v.

BRAD LIVINGSTON, individually and in his official
capacity, JOE OLIVER, NANCY BETTS, L. FIELDS,
JOHN DOE, ROBERT LEONARD, BRANDON
MATTHEWS, DEBRA GILMORE, SARAH RAINES,
DANNY WASHINGTON, MATTHEW SEDA, TULLY
FLOWERS, DORIS EDWARDS, LINDA McKNIGHT,
REVOYDA DODD, RICK THALER, WILLIAM
STEPHENS, ROBERT EASON, DENNIS MILLER,
REGINALD GOINGS, and OWEN MURRAY in their
individual capacities, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, and UNIVERSITY OF TEXAS
MEDICAL BRANCH

DEFENDANTS

CIVIL ACTION NO.
6:13-cv-712-KNM
JURY DEMANDED

PLAINTIFFS' SECOND NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs advise the Court of relevant supplemental authority supporting their
response to Defendant University of Texas Medical Branch's motion to dismiss
Plaintiffs' Americans with Disabilities Act and Rehabilitation Act claims (Doc. 5).

On January 16, 2014, Federal District Judge Nelva Gonzales Ramos denied a virtually identical motion in *Hinojosa v. Livingston*, Civil Action No. 2:13-CV-319, Doc. 24 (S.D. Tex. Jan. 16, 2014) (attached as *Exhibit I*). Judge Ramos ruled:

Plaintiff has alleged sufficient facts to state how the decedent was discriminated against. Plaintiff alleges that Defendant knew of the risks and dangers associated with certain medical conditions and medications, that Defendant knew the decedent suffered from those conditions and used those medications, and that despite that knowledge, Defendant failed to make reasonable accommodations, resulting in the decedent suffering more pain and punishment than non-disabled prisoners – namely, his death.

Id. p. 4. Judge Ramos further held “it is not enough for Defendant to claim that all prisoners in the [prison] – whether suffering from a disability or not – endured the same housing and living conditions that the decedent did.” *Id.*

The facts alleged in this case are exactly the same. Like Mr. Hinojosa, the decedents here suffered from heat-sensitive disabilities, but UTMB denied them any accommodations to protect them from the extreme indoor temperatures in Texas prisons. (If anything, this case is more compelling because when Mr. Hudson and Mr. James reported symptoms of heat exhaustion, UTMB medical providers failed to treat them. *See* Plaintiffs’ Amended Complaint, Doc. 8, ¶¶ 154-163, 178-79, 187-89.) Thus, this Court should consider Judge Ramos’ decision as persuasive authority, and Plaintiffs respectfully request the Court deny UTMB’s motion to dismiss.

DATED: January 16, 2014.

Respectfully submitted,

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By /s/ Jeff Edwards

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CERTIFICATE OF SERVICE

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Eastern District of Texas.